

# **EXHIBIT**

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UNITED STATES DISTRICT court  
DISTRICT OF DELAWARE

CORDIS CORPORATION,

Plaintiff,

VS.

MEDTRONIC VASCULAR, INC.,  
BOSTON SCIENTIFIC  
CORPORATION AND SCIMED LIFE  
SYSTEMS, INC.,

Defendants.

)  
)  
)  
)  
) 97-550-SLR  
) Consolidated

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VIDEOTAPED DEPOSITION OF  
REGINALD LOW, M.D.  
New York, New York  
Wednesday, November 10, 2004

Reported by:  
Robert X. Shaw, CSR  
CSR NO. 817  
JOB NO. 167300

1 Dr. Low

2 and this concludes tape number 1. And we  
3 are off the record.

4 (Recess.)

5 THE VIDEOGRAPHER: Stand by. The  
6 time is 10:53 and this begins tape 2 and  
7 we are back on the record of the  
8 deposition of Dr. Low.

9 Q. Dr. Low, placed in front of you is  
10 Low Exhibit 19. Would you take a look on page  
11 132 and in the middle of the paragraph -- and  
12 feel free to read as much as you need -- there  
13 is a statement that says: "The flexibility  
14 depends on the ability of the stent to  
15 elongate differentially such that the stent  
16 wall outside of the curve be longer than the  
17 wall inside of the curve." Do you see that?

18 A. Aha.

19 Q. Do you have an understanding of what  
20 the stent wall that is being referred to in  
21 that paragraph is?

22 MR. CHAPMAN: Objection, vague.

23 A. I assume that they are talking about  
24 the elements on the outside of the curve that  
25 are part of the stent.

1 **Dr. Low**

2 Q. Which elements are those?

3 A. Well, whatever elements are on the  
4 outside. I mean --

5 Q. Would the C-rings be part of the  
6 wall of the stent?

7 A. That would be one wall of the stent.

8 Q. Would the U-rings also be part of  
9 the wall of the stent?

10 A. It is probably part of a different  
11 wall of the stent.

12 Q. In the NIR stent why would you  
13 differentiate the C-rings as being part of one  
14 wall and the U-rings as being part of another  
15 wall?

16 A. Different radiuses. They are  
17 certainly not in the same plane. They are  
18 part of a different radius.

19 Q. Is it your understanding that the  
20 term "wall" requires something to have the  
21 same radius?

22 MR. CHAPMAN: Objection. Vague as  
23 to the meaning of what meaning of "wall"  
24 we are using.

25 A. Yes, I would agree that -- I mean,

1 Dr. Low

2 there is no wall that would define the U  
3 elements as well as the C elements.

4 Q. If someone wrote something where  
5 they referred to the thickness of the wall of  
6 a stent, what would you take, what would your  
7 understanding, as a cardiologist, be?

8 MR. CHAPMAN: Objection. Vague.

9 A. Um, as a cardiologist, I would take  
10 that to mean the thickness of the metal from  
11 which it was constructed.

12 Q. Would you consider the metal from  
13 which a stent is constructed to be the wall of  
14 a stent?

15 MR. CHAPMAN: Same objection.

16 A. No.

17 Q. Why not?

18 A. Well, the metal is the metal and,  
19 you know, "wall" is, it is a completely  
20 different concept.

21 Q. When you use an NIR stent, is it the  
22 metal of the NIR stent that acts as a  
23 scaffolding to support the artery?

24 A. It is the pattern of the cells, made  
25 of metal, that support the vessel. It is

1 Dr. Low

2 actually the geometry of the cells.

3 Q. And the geometry of the cells is  
4 defined by the metal; correct?

5 A. Well, it is defined by the shape of  
6 the cells made by the metal.

7 Q. Does the empty space inside of the  
8 cell of a stent provide any support to the  
9 artery wall?

10 A. No.

11 Q. Is there anything besides the metal  
12 of the NIR stent that provides support to the  
13 artery wall?

14 A. Well, I mean, in this case, all of  
15 the elements of the stent supply support,  
16 including the weld joint.

17 Q. The weld joint, part of the metal of  
18 the stent?

19 A. It is probably a different metal.

20 Q. Do you know if it is a different  
21 metal or the same metal?

22 A. You know, I can't tell you  
23 specifically, but I believe that it is a  
24 different metal.

25 Q. Okay. Do you consider -- I will go

1 Dr. Low

2 back.

3 With the NIR stent, we are talking  
4 about the C-sections, do they have a wall?

5 MR. CHAPMAN: Objection. Vague.

6 A. Well, can you define the C-section  
7 for me?

8 Q. Sure. Have you ever heard anyone  
9 describe the NIR stent as being made up of  
10 C-rings and connecting "Us"?

11 A. I think the C and the U comprise the  
12 cell, and multiple cells comprise the NIR  
13 stent.

14 Q. Okay.

15 If someone was talking about the NIR  
16 stent and mentioned C-rings, what would your  
17 understanding be of what they were referring  
18 to?

19 Let me go back to your expert  
20 report, and you referred to a C region. What  
21 were you referring to?

22 A. The C regions that I believe that  
23 the Cordis group has defined, which includes  
24 their attorneys.

25 Q. What was your understanding when you

# **EXHIBIT**

# **E**



*Johnson & Johnson*  
INTERVENTIONAL SYSTEMS CO.

September 1, 1995

Mr. W.D. Dearstyne  
to  
Mr. J.T. Lenehan  
to  
Mr. C.H. Johnson  
to  
Executive Committee

EXHIBIT ID

*Croce-46*  
*11/23/99*

PROJECT OLIVE

This recommends an agreement with Cardimed in Tel Aviv, Israel for the rights to the NIR Stent that consists of a \$105MM license for worldwide marketing rights and an option to buy the patents and technology after a series of milestone payments of \$230MM have been paid within one year of the signing of this agreement making the total acquisition \$335MM. JJIS needs to proceed with this agreement immediately to prevent this very competitive and valuable stent design from being acquired by Boston Scientific or going public at a valuation between \$450-500MM. The following strategic business reasons drive the need for this acquisition:

- A. The NIR Stent design is a superior stent design for both coronary and peripheral applications and has the potential to substantially replace the PALMAZ and PALMAZ-SCHATZ Stent due to these unique features:
1. Flexible delivery, yet, very strong after deployment.  
The flexibility aspect of the NIR Stent is a substantial competitive advantage over the current PALMAZ and PALMAZ-SCHATZ Stents and is a feature which can potentially replace up to 50% of our current stent volume based on indicated physician preference and limited clinical results.
  2. Accelerates JJIS expansion into two major stent segments in which we are unable to participate due to the inherent stiff design of the PALMAZ and PALMAZ-SCHATZ Stents:
    - a. Multi-vessel/extensive disease in patients.  
The unique flexibility and strength of the NIR Stent will increase stent penetration into this important and large segment of the stent market - potential estimated to be over 100,000 procedures (\$160MM) per year worldwide. This will permit stenting of patients who would normally be sent to open heart surgery. This is a major opportunity for JJIS.

Cordis v. BSC  
CA No. 97-550 (SLR)  
D.Del.

**DXB 3168**

a *Johnson & Johnson* company

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CONFIDENTIAL ATTORNEYS EYES ONLY J

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- 2 -

- b. <3mm Vessels - The NIR Stent's unique design is ideal for stenting <3mm vessels and will permit more rapid penetration of this untapped large segment estimated to be 200,000 procedures (\$320MM) per year worldwide.
3. Longer Stent Design - The NIR Stent design permits longer stents which will help reduce hospital/procedure costs. JJIS needs longer, flexible stents to effectively compete against the multiple new stent products rapidly being introduced in Europe and other key markets. We cannot compete effectively, long term, with the current PALMAZ and PALMAZ-SCHATZ Stent design.
4. Sheathless Delivery - The NIR Stent design will permit a sheathless delivery, hence, minimizing the invasive nature of the stent procedures. This will reduce the incidence of bleeding at the puncture site, shorten hospital stays and permit safer delivery of the stent.
5. Higher Peripheral Penetration Rates - Due to the much easier/user friendly characteristics of the NIR Stent, we anticipate higher penetration rates into the current peripheral stent markets.
6. Deflect Competitive Claims of Flexibility - All competitive stents have a strong flexibility claim versus the PALMAZ and PALMAZ-SCHATZ Stents. The NIR Stent will match or exceed the flexibility performance of competitors and provide superior strength following deployment.
7. Lower Manufacturing Costs - The automated manufacturing and inspection method for the NIR Stent utilizes high-tech, integrated circuit technology and increases the precision of manufacturing. We anticipate it will lead to lower manufacturing costs.

In summary, this acquisition is necessary to perpetuate the stent franchise for Johnson & Johnson while protecting and building upon our worldwide leadership position.



M.L. Woodall

# **EXHIBIT**

# **F**

Dr. Robert Ersek / Resume

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## **ROBERT A. ERSEK, M.D., FACS.**

### **Office Address: Contact:**

34th St. Medical Phone: (512) 459-6800 (24 hours)  
Professional Building Fax: (512) 451-9476  
630 West 34th Street, Suite #201 Email: Ersek@mail.zilker.net  
Austin, Texas 78705

### **Birthplace and Date: Marital Status:**

Ridley Township, Pennsylvania Married (Gerry A.)  
June 19, 1938

### **Children: Citizenship:**

Cynthia - born 1970 United States of America (By birth)  
Stephanie - born 1969

### **Elementary Education:**

Aldan Elementary School, Aldan, Pennsylvania

### **High School Education:**

Brown Preparatory School, Philadelphia, Pennsylvania

### **Undergraduate and Graduate Work (degrees and dates):**

Temple University, 1957-58  
Philadelphia, Pennsylvania

Morris Harvey College, 1958-61  
Charleston, West Virginia  
B. S. Degree

University of Pennsylvania, 1961-62  
Philadelphia, Pennsylvania

Hahnemann Medical College, 1962-66  
Philadelphia, Pennsylvania  
M.D. Degree

University of Minnesota Medical School, 1966-73  
Minneapolis, Minnesota

Tulane University Medical School, 1975-77  
New Orleans, Louisiana

University of Mississippi, 1978  
Jackson, Mississippi



Dr. Robert Ersek / Resume

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**Internship:**

University of Minnesota Hospitals, 1966-67  
Minneapolis, Minnesota  
Straight Surgery

**Residencies and Fellowships:**

Research Fellow, 1962  
University of Pennsylvania  
Philadelphia, Pennsylvania

Research Fellow, 1963  
Hahnemann Medical College

Medical Fellow, Department of Surgery, 1975-77  
University of Minnesota, Minneapolis, Minnesota

Resident, 1975-77  
Department of Plastic and Reconstructive Surgery  
Tulane University School of Medicine  
New Orleans, Louisiana

Fellowship, 1978  
Department of Plastic and Reconstructive Surgery  
University of Mississippi Medical Center  
Jackson, Mississippi

**Honorary Fraternities:**

Phi Kappa Delta, 1961  
Serpent Society, 1963  
Aesculapian Society, 1963

**Certifications:**

National Board of Medical Examiners, Parts I, II, & III 1967  
Certificate 873-66

Medical License, State of Minnesota 17947 1967  
Basic Science Certificate 18318

Medical License, State of Delaware, Reg. No. 001248 1974  
Certificate No. C1000676

Medical License, State of Louisiana, Reg. No. 3560 1975

Medical License, State of Mississippi, Lic. No. 8127 1977

Medical License, State of Texas, Reg. No. E-9190 1977

American Board of Plastic Surgery Certificate No. 2883 1984

Medical License, State of California, Lic. No. G058548 1986

Fellow, American College of Surgeons 1986

Fellow, International College of Surgeons 1989

Cardiopulmonary Resuscitation and Emergency Cardiac Care 1993

**Society Memberships:**

Aesthetic Society of Plastic Surgeons  
Aesthetic Surgery Education and Research Foundation  
Charter Member  
American Board of Plastic Surgery  
American Society for Artificial Internal Organs  
American Trauma Society  
American Association of University Professors  
American Society of Plastic and Reconstructive Surgeons  
International Symposium Committee  
Educational Foundation  
Standards of Care Committee  
American Association of Hand Surgery - Active Member, 1985  
American Medical Writers Association  
American Medical Association  
American Association for the Advancement of Science  
American College of Surgeons  
Austin Society, Plastic and Reconstructive Surgeons  
Austin Smiles  
Flying Physicians  
Hennepin County Medical Society  
Interamerican College of Physicians & Surgeons  
International Society of Fertility and Sterility  
International College of Surgeons  
Lipoplasty Society of North America, Inc.  
Louisiana State Medical Society  
Minnesota Academy of Science  
National Board of Medical Examiners  
National Academy of Science  
Orleans Parish Medical Society  
Societa Italiana Di Chirurgia Plastica  
Society for Office Based Surgery  
Society for Air Force Clinical Surgeons  
Society for Cryosurgery  
Southern Medical Association  
Chairman, Plastic Surgery Division  
Student American Medical Association  
Texas State Medical Society  
The World Medical Association  
Travis County Medical Society  
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St. David's Community Hospital  
919 East 32nd Street  
Austin, Texas 78705

Seton Medical Center  
1201 West 38th Street  
Austin, Texas 78702

**Academic Appointments:**

Assistant Clinical Professor  
School of Health Professions  
Southwest Texas State University  
San Marcos, Texas

**PUBLICATIONS**

1. Coburn, R.F. Ersek, R.A., Forster, R.: Effect of Erythrocyte Destruction on Carbon Monoxide Formation in Man. Fed. Proc., Vol. 21, No. 2, pp. 67, March-April, 1962.
2. Ersek, R.A., Jones, M.H., Tilak, S.P., Howard, J.M.: Studies of the Peripheral Lymphatics Following Occlusion of the Femoral Vein in the Dog. Surg., Vol. 57, No. 2, pp. 269-274, February, 1965.
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- Society Annual Meeting, Dallas, Texas, May 10, 1986.
59. Ersek, R.A., Sedation: Valium and Ketamine for Outpatient Serial Suction, Lipolysis Society of North America, Los Angeles, CA, October, 1986.
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95. Ersek, R.A., "Firestorm Fibrosis: The Fast Fibrotic Phenomenon." Annals of Plastic Surgery, Vol. 26, No. 5, Pages 494-498, May, 1991.
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98. Ersek, R.A., Navarro, J.A. "Transaxillary Subpectoral Placement of Textured Breast Prostheses." ANNALS OF PLASTIC SURGERY, Vol. 27, No. 1, Pages 93-96, July, 1991.
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101. Ersek, R.A., Ersek, S.L., "Circular Cinching Stitch" PLASTIC AND RECONSTRUCTIVE SURGERY JOURNAL, Vol 88, No. 2, Pages 349-352, August, 1991.
102. "Skin Under Pressure: Beyond Retin A" (Bioplastique) SELF, September, 1991.
103. "A Body To Die For" (MISTI Gold Breast Prostheses) REDBOOK, September, 1991.
104. "Molecular Impact Surface Textured Implants (MISTI) Alter Beneficially Breast Capsule Formation at 36 Months" JOURNAL OF LONG-TERM EFFECTS OF MEDICAL IMPLANTS, Vol. 1, Iss. 2, 1991, Pages 155-169.
105. Ersek, RA, Letter to the Editor: Transplantation of Autologous Fat, PLASTIC AND RECONSTRUCTIVE SURGERY, Vol. 88, No. 6, December, 1991, Page 1110, in response to comments by Carson Lewis.
106. Ersek, R.A., Glaes, K.L., Navarro, J.A., "Results of Reaugmentation with MISTI Prostheses after Failure of Smooth Silicone Prostheses," PLASTIC AND RECONSTRUCTIVE SURGERY, Vol. 89, No. 1, January, 1992, Pages 83-87.
107. Ersek, R.A., Beisang, A.A., "Bioplastique: A New Biphasic Polymer for Minimally Invasive Injection Implantation", AESTHETIC PLASTIC SURGERY JOURNAL, Vol. 16, No. 1, Pages 59-65, Winter, 1992.
108. Ersek, R.A., "Bioplastique: Specific Technical Advice on Its Use and Possible Complications," AESTHETIC PLASTIC SURGERY JOURNAL, Vol. 16, No. 1, Pages 67-68, Winter, 1992.
109. Ersek, R.A., Beisang, A.A., "Mammalian Response to Subdermal Implantation of Textured Microimplants," AESTHETIC PLASTIC SURGERY JOURNAL, Vol. 16, No. 1, Pages 84-90, Winter, 1992.
110. Ersek, R.A., Denton, D.R., "Processed Irradiated Bovine Cartilage: Studies of Humoral Response in Mice and Humans", ACTUALITES DE CHIRURGIE ESTHETIQUE, ACTUEL SOFCEP 92, Sous la direction de Bernard MOLE; #16, Pages 187-196, MASSON Publishers, 1992 - Paris Milan Barcelone Bonn.

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114. Ersek, R.A., Beisang, A.A., "Bioplastique: A New Textured Copolymer Microparticle Promises Permanence in Soft Tissue Augmentation," 1991. Abstract, LIPOPLASTY Fall 1992 Newsletter, Vol. 9, No. 4, Page 9.
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116. Ersek, R.A., "Figure Fault Sculpturing," MS. TEXAS USA PAGENT MAGAZINE, March, 1993, Page 32.
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119. Ersek, R.A., Navarro, J.A., Nemeth, D.Z., Sas, G., "A No Bleed Implant," AESTH. PLAST. SURG., 17:225-228, 1993.
120. Ersek, R.A.; G.A.; C.L.; Williams, John "A New Biologically, Osmotically, Oncotically Balanced Gel That Shows Calcifications Blocked by Silicone," AESTHET. PLAST. SURG. 17:331-334, 1993.
121. Ersek, R.A., Vazquez-Salisbury, A., "Wound Closure Using a Skin Stretch Device," CONTEMPORARY ORTHOPAEDICS, Vol. 28, No. 6, 495-500, June 1994.
122. Ersek, R.A., Bell, H.N., Vazquez-Salisbury, A., "Serial and Superficial Suction for Steatopygia (Hottentot Bustle)," AESTH. PLAST. SURG., 18:279-282, 1994.
123. Ersek, R.A., "Textured Silicone Breast Implants," PLAS. RECONSTR. SURG., Vol. 95, No. 4, April, 1995, pgs. 771-772.
124. Ersek R.A., Stovall R.B., Vazquez-Salisbury A., Chin Augmentation Using Minimally Invasive Technique - Bioplastique. PLAS. RECONSTR. SURG., May 1995, Vol 95, No. 6, pg 985-92.

#### VIDEO PUBLICATIONS

1. "What is Breast Augmentation Mammoplasty?" Patient Education film, 20 mins.
2. "Transaxillary Approach to Breast Augmentation," Physician Instruction film, 22 mins.
3. "MISTI: Molecular Impact Surface Textured Implant Silicone Prosthesis," Surgeon Instruction film, 20 mins.
4. "After the Surgery: Helping Your Body Heal," Patient Education film, 15 mins.
5. "Bioplastique," Physician instruction film, 40 mins.
6. VOLUME I: What is Augmentation Mammoplasty; VOLUME II: Plastic



Surgery Procedures; VOLUME III: After The Surgery: Helping your Body Heal.

7."Steroid Induced Gynecomastia", 12 minutes, 1993

8."Acquired Gynecomastia"; 17 minutes, 1993

#### **CO-EDITOR**

Organ Perfusion and Preservation, edited by John C. Norman, et al., New York: Appleton-Century-Croft, 1968.

#### **BOOK AUTHORED**

Ersek, R.A. : Pain Control with Transcutaneous Electrical Neurostimulation.

Published by Warren Green and Company St. Louis, Missouri, USA, 1981.

Library of Congress Catalogue No. 78-50175, ISBN No. 087527-168-5.

#### **SCIENTIFIC EXHIBITS**

1.Cytogenetics in Clinical Medicine

S.A.M.A. Squibb Contest, 1965, Chicago, Illinois.

2.Membrane Oxygenator

S.A.M.A. Squibb Contest, 1967, Chicago, Illinois.

3.Membrane Oxygenator

American Medical Association, 1967, Atlantic City, New Jersey

4.Organ Perfusion Apparatus

S.A.M.A. Squibb Contest, 1968, Detroit, Michigan

5.Silver Impregnated Porcine Xenograft for Temporary Replacement of Injured or Missing Skin at the American College of Surgeons at the 69th Clinical Congress in Atlanta, October 16 - 21, 1983, Exhibit #S853, Ersek, R.A.

6.Processed Bovine Cartilage for Contour Defects: Experimental and Clinical Experience with 3-year follow-up, October 16 - 21, 1983, Exhibit #S855, Ersek, R.A., et al., American College of Surgeons 69th Annual Clinical Congress at Atlanta.

7.Chondroplast: Processed Bovine Cartilage; National Congress of Plastic Surgery, Montreal, Canada, June 26 to July 1, 1983.

8.Porcine Xenograft for Contaminated Wounds: American Society of Plastic & Reconstruction Surgeons, Las Vegas, Nevada, October, 1984.

9.Porcine Xenograft for Contaminated Wounds: American College of Surgeons, San Francisco, CA, October, 1984.  
Outpatient Suction Lipectomy, Ersek, R.A., Zambrano, J., Surak, G., Lele, E., T.M.A., Dallas, Texas, May 10, 1986.

10. Biosynthetic Dressings That Increase Healing Rates, R.A. Ersek, G. Surak, D. Denton; 72nd Annual Clinic Congress, American College of Surgeons, Oct. 19-24, 1986, New Orleans, LA.

11. The Use of Chondroplast in Nasal Reconstruction, R.A. Ersek; October, 1986 Los Angeles, CA.

12. Silver Skin for Scalds, R. A. Ersek; October, 1988, American College of Surgeons, Chicago, Illinois.

13. Suction Lipoplasty for Reconstructive Surgery, Texas Medical

- Association, Fort Worth, Texas, May 1989.
14. Prosthetic Skin for Physiologic Wound Closure, Southern Medical Association Annual Meeting, Washington, D.C., October, 1989.
  15. Suction Lipoplasty for Reconstructive Surgery, Lipoplasty Society of North America, Atlanta Annual Meeting, Georgia, October 1989.
  16. Suction Lipoplasty for Reconstructive Surgery, Aesthetic Society of Plastic and Reconstructive Surgeons Annual Meeting, Chicago, Illinois, April 1990.
  17. MISTI, Molecular Impact Surface Textured Implants - 24 month Follow Up, Aesthetic Society of Plastic and Reconstructive Surgeons Annual Meeting, Chicago, Illinois, April 1990.

### SPECIAL HONORS

- First Place Gold Medal, College Swimming Team, 1959
- President of Pre-Medical Society, 1960
- Selected as Chapel Speaker, 1960
- Selected by Faculty as Student Teaching Fellow for Bacteriology Laboratory, 1960
- Chosen by College Administration for Student Affairs Committee, 1961
- Selected by Colleagues to represent State of West Virginia at National Forensic Meeting, 1961
- Elected to Undergraduate Research Society at Hahnemann, 1962
- Selected by Faculty to present student lecture on Aloxan Induced Diabetes, 1962
- Selected by Faculty to present student lecture on Reticuloendothelial System, 1962
- Appointed Chairman of Serpent Society, 1963
- Editor-in-Chief of Yearbook, 1964
- President of Student American Medical Association and Student Institute at Hahnemann, 1964
- Awarded Research Fellowship, 1964
- Third Place Award for Display in Student American Medical Association Squibb National Competition, 1965
- National and Regional Vice-President of Student American Medical Association, 1965
- Awarded Research Fellowship, 1965
- Alan Edelson Prize by Faculty for outstanding leadership and service to Hahnemann Medical College, 1966
- Grand Award for Membrane Oxygenator, Science Exhibit in Student American Medical Association Squibb National Contest, 1967
- Nominated for Outstanding Young Men of America, 1969
- Award for Excellence in Medical Writing from Minnesota Medicine, 1970
- Listed Who's Who in America, 1978
- Listed Who's Who in the World, 1983
- Listed Who's Who in American Industry and Finance, 1979
- Member, Board of Directors, Ballet Austin, 1980
- Member, Knights of the Symphony, 1980
- Listed Who's Who in American Medical Specialties, 1984



- Listed Who's Who in Texas, 1986
- Fellow American College of Surgeons, 1986
- Elected Chairman of Plastic Surgery Division, Southern Medical Association, 1988
- Photograph Awards received from Travis County Medical Society, 1983-1990
- Cover Photo for Travis County Medical Journal, May 1989 Issue, 1989
- Member, Editorial Advisory Board of the Journal of Long-Term Effects of Medical Implants, Washington, D.C., 1991

• **INVENTIONS:**

- 1.A New Biological Specimen Collection System - U.S. Patent Office, Washington, D.C., Patent No. 3,346,883.
- 2.R ECAD and Dialyzer - a membrane pump-oxygenator with one moving part, no occlusive valves, with intrinsic and extrinsic controls and cardiac pacer and synchronization capabilities. By changing the membrane from silicone rubber to cellophane, the artificial heart-lung becomes a kidney.
- 3.S ubcutaneous Peritoneal Reservoir - a silicone rubber reservoir with a steel disk in the center thereof and a conduit to the intraperitoneal cavity to be used for a low-cost method of home dialysis.
- 4.Arteriove nous Shunt - a teflon and silicone rubber short circuit between the arterial and venous systems for hemodialysis with a positive tissue ingrowth assuring a mechanical and germ-proof seal. A unique ball joint system is used for the junction means which allows for one-handed use, and hence, self-dialysis. U.S. Patent No. 3,638,649.
- 5.Double L umen Catheter - for the simultaneous exit and inflow of blood that is to be cleansed, treated, or oxygenated. A new design allows 150 per cent greater flows in a given vessel than the prior art.
- 6.Double B alloon Catheter - for isolation of the circulation to and from a region or organ to permit selective treatment or, in the case of donation for transplant, early preservation.
- 7.Vessel L oops - for the positive identification of vessels and other structures during surgery. Patent pending.
- 8.P atient Carrier - to prevent repeated dislodgement of broken bones and other structures in the emergency patient who must receive many treatments and studies during the initial assessment and repair. U.S. Patent No. 3,648,305.
- 9.S urgical Clip - a new staple-like device to allow for the rapid and certain occlusion of vessels during surgery, including a pistol-like applier.
10. Valve Seat - a new staple-like device to allow for the rapid and certain installation of prosthetic and transplanted heart valves. This device is incorporated into the wall of the housing vessel (or heart) and thus never comes in contact with the passing blood. U.S. Patent No. 3,657,744.
11. Heat Exchanger - a disposable high flow, low resistance heat

- exchanger with no external power source, no moving parts and three degree accuracy for warming stored blood and other solutions prior to administration intravenously. U.S. Patent No. 3,612,059.
12. Biopsy Needle - similar to the prior art but having a positive means for clot formation so that even a punctured vessel will be rapidly sealed.
  13. Suction Collector - a device for the simultaneous suction, collection and retraction during the decalcification and replacement of heart valves.
  14. Closed Rebreathing System - allows the comfortable collection of all expired gases for treatment or analysis, with a non-traumatic sealing system.
  15. Sever Cord - a means for simultaneously ligating and dividing vessels, umbilical cords and other structures. U.S. Patent No. 3,631,858.
  16. Fiberoptic Illuminator - provides bright, cool, sterile, obedient light within wounds and deep cavities. Sheath Patent No. 3,794,091 with lens - U.S. Patent No. 3,809,072.
  17. Safety Thermometer - classic glass fever thermometer coated with plastic to decrease breakage and protect against injury. U.S. Patent No. 3,838,600.
  18. Vesseloops - color-coded elliptical silicone rubber loops for occlusion, retraction, identification of vessels and other structures.
  19. Fracture Fixation - a new configuration of expanded stainless steel mesh for repair of fractures. U.S. Patent No. 3,710,789.
  20. A Skin Storage System (Co-inventor A. A. Beisang) - a new system for the harvesting, preparation, and storage of sterile skin grafts, both human and animal, for temporary skin replacement. U.S. Patent No. 3,793,103 (issued October 22, 1974).
  21. Improvements in Vascular Prosthesis: Additional design and preparation modifications to the Mendich Method for human umbilical cord preservation as arterial substitute. (Co-inventor A. A. Beisang). Several patents pending.
  22. Vessel Stabilizer - disposable surgical instrument to generally stabilize vascular wall during suturing. Patents pending.
  23. Method of preparing vascular grafts of human and other origins for tissue ingrowth. (Co-inventors A. A. Beisang and D. G. Holman). U.S. Patent No. 4,239,498.
  24. Method of performing vascular grafts of human and other umbilical cord origins for tissue ingrowth. (Co-inventors A. A. Beisang and D. G. Holman). U.S. Patent No. 4,239,492.
  25. Method of performing vascular grafts of human and other animal origin. (Co-inventors A. A. Beisang and D. G. Holman). U.S. Patent No. 4,240,794.
  26. Septal Splint - a disposable plastic splint for maintaining the structural integrity of the nasal septum following surgery. Patent issued #4,378,802.
  27. Septal Splint - a series of splints for the nasal septum including a simple flat plastic implantable septal splint; a fenestrated airway member in a ballooned fenestrated airway member. U.S. Patent No.

- 4,592,357.
28. Method for fixing prosthetic implants in a living body. U.S. Patent No. 3,657,744.
  29. Wound Closure Strips, Adhesive Strips Designed Specifically with the Elastic Modulus of Skin Provide a Waterproof, Germproof, Flexible Physiologic Skin Prosthesis with a Temporary Splinting of Wounds During Healing. U. S. Patent No. 4,780,168.
  30. MISTI: Molecular Impact Surface Textured Implant, a new textured surface prosthesis for breast augmentation. Patent Pending.
  31. DIAB Canula: Blunt canula with a lumen on taper to allow for dissection, injection, aspiration and/or biopsy and delivery of viscous injectible substances. Patent Pending.
  32. Marquis Diamond Drain: A surgical drain apparatus and method for draining fluid from a wound while preventing contaminants from entering the wound and preventing substantial leakage of drained fluid. U.S. Patent No. 5,045,075.
  33. Textured Micro Implants, Bioplastique: Micro textured implant particles; biphasic co-polymer for injection through a special needle to fill dents in nose, pock marks, chins, cheeks, etc. U.S. Patent No. 5,258,028, November 2, 1993. Robert A. Ersek, MD, FACS, Arthur A. Beisang, Jr., Arthur A. Beisang, III, MD.
  34. Bio-Osmotic Gel for Implant Prostheses: New biologically, osmotically, oncologically balanced safety gel for filling breast prostheses that has increased radiolucency and biocompatibility compared with saline or silicone gel. U.S. Patent No. 5,067,965.

#### PRESENTATIONS:

- "Silver-Impregnated Porcine Xenograft in the Treatment of Skin Loss Injuries," present at the Association of Surgeons of Southeast Asia Fourth Biennial General Scientific Meeting, March 27, 1983, Taipei, Taiwan, Republic of China.
- "Chondroplast Process Bovine Cartilage for Contour Defects," presented at the Ninth National Congress of Turkish Plastic and Reconstructive Surgery, 1984, Bursa, Turkey.
- "Mechanism of Action of Silver-Impregnated Porcine Xenograft," presented at the Brussels International Congress on Burns, June, 1984.
- "Chondroplast, Processed Bovine Cartilage for Contour Defects," present at St. Thomas Hospital, London, England, Harley Street, London, England, and Eastmann Dental Hospital, London, England, October, 1985.
- "Glutaraldehyde Cross-Linked Silver-Impregnated Xenograft for Burn Injuries," presented at the Academic Hospital in Groningen, Holland, June 18, 1985.
- "Chondroplast and Aldehyde Cross-Linked Silver-Impregnated Xenograft Mount Vernon Hospital," June 20, 1985, London, England.
- "Chondroplast and Periguard," presented at Staeditschen Kliniken, Duesseldorf, Germany.

- "E-Z Derm, (Aldehyde)" for B.G. Karnkenanstalten, Bochum, Germany.
- "Chondroplast" and "E-Z Derm", presented to the Klinikum Aachem, Germany.
- "Chondroplast" and "E-Z Derm", presented at St. Louis Hospital, Paris, France. (Professor Banzet).
- "Chondroplast," presented to Hospital Henri-Mondor-Paris, France, (Professor Baruch, Professor Raulo) June, 1984.
- "Periguard for Tendons": Chondroplast; E-Z Derm, presented to Hospital Boucicauli, Paris, France. (Dr. Viliam) June, 1985.
- "Chondroplast - 5 year follow-up," Presented at the French Accadamis on Plastic Surgery - Annual Meeting, Paris, France, October, 1985.
- "Serious Serial Suction," presented as part of a program Lipolysis Society and Annual Meeting, Kansas City, Kansas, October, 1985.
- "Serial Suction Lipectomy" presented at recent Advances in Aesthetic Surgery - Beverly Hills Medical, January 18-20, 1986.
- "Serial Suction Lipectomy," presented at Texas Medical Society Annual Meeting, Dallas, Texas, May 10, 1986.
- "Sedation: Ketamine and Valium for Outpatient Suction Lipectomy," presented at Lipolysis Society of North America, Los Angeles, California, October, 1986.
- "Serial vs. Massive Suction Lipectomy Resection," presented at Lipolysis Society of North America, Los Angeles, California, October, 1986.
- "Soft Tissue Injuries," Annual EMS Lecture, Southwest Texas State University.
- "Plastic & Reconstructive Surgery Overview," Hospital Staff Lectures.
- "Cosmetic Surgery Overview," Staff Lectures.
- "The Use of Silver Impregnated Porcine Xenograft for Skin Lesions in the Elderly," Wissenschaftliches Programm, Deutsche Gesellschaft für Geriatrie e.V., September, 1987.
- "Molecular Impact Surface Textured Implants (MISTI PROSTHESIS)," Aesthetic Annual Meeting, San Francisco, October, 1987 and Texas Society of Plastic Surgeons Meeting, San Antonio, Texas, May, 1988.
- "Pseudobursa Formation Following Combined Lipectomy and Suction (Cut and Suck with Caution)," Southwestern Region Lipoplasty Symposium, Las Vegas, Nevada, March 1988, and Annual Meeting of American Society of Plastic and Reconstructive Surgeons in Toronto, Canada, September, 1988.
- "Liposuction Variations on a Theme, Head-to-Toe," Annual Meeting of Lipoplasty Society of North America, in Toronto, Canada, October, 1988.
- "Severe and Lethal Complications from Liposuction by Unqualified Practitioners as Reviewed by Robert A. Ersek, M.D.," Session II, American College of Surgeons, Discussant: Thomas J. Krizek, M.D., FACS, October, 1988.
- "Molecular Impact Surface Textured Implants (MISTI Prosthesis)," meeting at French Speaking Hospital, Brussels, Belgium, October, 1988.
- "Processed Irradiated Bovine Cartilage for Contour Defects and Nasal Reconstruction," European Facial Plastic Surgery Meeting, Barcelona, Spain, October, 1988.
- "Molecular Impact Surface Textured Implants (MISTI Prosthesis),"

- American Society of Plastic and Reconstructive Surgeons, Southeastern Division, Breast Symposium, Atlanta, Georgia, January 20-21, 1989.
- Program Chairman for Lipoplasty Society of North America Advanced Facial Contouring Symposium, San Diego, California, February, 1989.
- "MISTI" Prosthesis, International College of Surgeons, Vienna, Austria, March 1989.
- "Serial Suction Lipectomy for Reconstruction of Regional Lipodystrophy," Tex. Med. Assn., Ft. Worth, Texas, May 1989.
- "Safe Serial Suction Lipectomy," International College of Surgeons, Istanbul, Turkey, September 1989.
- "MISTI Prostheses," Joint Symposium, Plastic Surgery PSEF, ASPRS, Budapest, Hungary, September 1989.
- Co-Chairman, "Finnish Aesthetic Teaching Symposium, FATS I," Tampere, Finland, October 1989.
- "Getting Started in Lipoplasty", Lipoplasty Society of North America Annual Meeting, San Francisco, California, October 1989.
- Local Host, "Lipoplasty Symposium" Lipoplasty Society of North America, held in Austin, Texas March 30-April 2, 1990.
- "Lipoplasty, Getting Started," Lipoplasty Society of North America Annual Meeting, Chicago, Illinois, April 1990.
- "Suction for Reconstruction," Aesthetic Society for Plastic and Reconstructive Surgery Annual Meeting, Chicago, Illinois, April 1990.
- "Bioplastique, Micro Textured Implants for Subcutaneous Injection and Augmentation of Soft Tissue," Aesthetic Society for Plastic and Reconstructive Surgery, Chicago, Illinois, April 1-4, 1990.
- "Bioplastique, A New Biphasic Copolymer, Biomaterial for Contour Corrections, Micro Implants" - First European Conference on Biomaterials in Reconstructive Surgery, Professor Donati - Chairman, Venice, Italy, September 21, 1990.
- "Biologically, Osmotically, Oncotically Balanced Safety Gel for Breast Implants One Year Clinical Experience" - The American Society for Aesthetic Plastic Surgery, Inc., Aesthetic Annual Meeting, New York, April 29, 1991.
- "MISTI Gold Implants; Two Year Follow-Up" - The Texas Medical Association Annual Meeting, San Antonio, Texas, May 15, 1992.
- "Protesi mammarie: nuove frontiere di biocompatibilit " - Nuove Frontiere Della Chirurgia Plastica Ed Estetica, Milano, Italy, October 8, 1991.
- "Sharp, Suction Extraction for Bioplastique", Lipoplasty Society of North America, 10th Annual Scientific Meeting, September 19, 1992, Washington DC.
- "Bioplastique vs. Autologous Fat Grafting", Robert A. Ersek, MD vs. Carson Lewis, Lipoplasty Society of North America, 10th Annual Scientific Meeting, September 20, 1992, Washington DC.
- "Bioplastique Three Year Clinical Experience", September 22, 1992, ASPRS Annual Meeting, Washington DC.
- "Serial Suctions for Large Volume Steatopygia," American Society for Aesthetic Plastic Surgery, Inc., 28th Annual Meeting, March 23, 1995, San Francisco.
- "But\*tucks Lift for Tight Thighs," American Society for Aesthetic Plastic

Surgery, Inc., 28th Annual Meeting, March 23, 1995, San Francisco.

#### SYMPOSIA:

- San Diego California, Co-Chairman, The San Diego Facial Dissection Seminar, Sponsored by the University of California in San Diego and Lipoplasty Society of North America, Spring, 1988.
- Finnish Aesthetic Teaching Symposium, FATS I," Co-Chairman, Tampere Finland, October, 1989.
- Lipoplasty Symposium, Chairman and Local Host, Austin, Texas, March 29-April 1, 1990.
- Bioplastique Teaching Seminars:
  - 1989 - Munich Germany; London, England; Holland
  - 1990 - Holland; Milan/Verona, Italy; Paris, France; Brussels, Belgium; Madrid, Spain; England; Norway; Denmark; Sweden; Finland; Japan; Korea.
  - 1991 - Taiwan; Singapore; Japan; England; Germany; Austria; Italy; Holland; Belgium; Spain; Switzerland; Singapore.
  - 1992 - Kuala Lumpur; Hong Kong; Singapore; Guadalajara, Mexico; Sao Paulo, Brazil; Los Angeles, California.

#### SCIENTIFIC EXHIBITS:

- Scientific Exhibit, May, 1993, "Outpatient Surgery for Liposuction" (2nd award winner - Group I). Texas Medical Association Annual Meeting, Houston, Texas.
- Scientific Exhibit, September, 1993, "Steatopygia: Hottentot Bustle". Lipoplasty Society of North America Fall Symposium, New Orleans, Louisiana.
- Scientific Exhibit, October, 1993, 1)"Gynecomastia"; 2)"A New Diamond Drain". American College of Surgeons Annual Session, San Francisco, California.
- Presentor, April, 1994, NOSE '94: Meeting of the Finnish Society of Plastic and Reconstructive Surgeons, Tampere Finland.
- Scientific Exhibit, May, 1994, "Gynecomastia", (2nd award winner - Group I); "Steatopygia"; "Constructive Cosmetic Surgery". Texas Medical Association Annual Meeting, Austin, Texas.
- Scientific Exhibit, September, 1994, "The Saddle (Straddle) Lift Series", LSNA 12th Annual Meeting, San Diego, California.
- Scientific Exhibit, "Steroid Induced Gynecomastia," SE.02, American Society for Aesthetic Plastic Surgery, Inc., 28th Annual Meeting, March 23, 1995, San Francisco.
- Scientific Exhibit, "The But\*tucks Lift for Tight Thighs," SE.10, American Society for Aesthetic Plastic Surgery, Inc., 28th Annual Meeting, March 23, 1995, San Francisco.



Dr. Robert Ersek / Resume

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Robert A Ersek M.D., F.A.C.S.

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# **EXHIBIT**

# **G**



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CORDIS CORPORATION, ) Volume IV  
)  
Plaintiff, )  
)  
v. ) No. 97-550-SLR  
)  
MEDTRONIC VASCULAR, )  
INC., BOSTON )  
SCIENTIFIC CORP., and )  
SCIMED LIFE SYSTEMS, )  
INC., )  
)  
Defendants. )

- - - - -  
MEDTRONIC VASCULAR, INC. )  
)  
v. ) No. 97-700-SLR  
)  
CORDIS CORPORATION, et al. )  
)  
Defendants. )

Wednesday, March 9, 2005  
9:30 a.m.

844 King Street  
Wilmington, Delaware

BEFORE: THE HONORABLE SUE L. ROBINSON  
United States District Court Judge

1 contemplated using, a balloon inside the Ersek  
2 stent; correct?

3 A. Correct.

4 Q. So what happened to these grant  
5 applications, did you get your funding?

6 A. No.

7 Q. Okay. Why not?

8 A. I don't know. The country was at  
9 war. We had other grants on shock and fracture  
10 fixation and other things, and Nixon had  
11 declared a war on cancer so that many of our  
12 grants at the university got rearranged to  
13 involve cancer, so that these that were, you  
14 know, for something really new and experimental  
15 for some reason they didn't get granted.  
16 Actually it never got turned down so they could  
17 be floating around in grant world someplace.

18 Q. The other question that I have for  
19 you -- I have got some more questions, but the  
20 next one is did these grant applications seek  
21 funds to use your stent as a stand-alone device  
22 to hold open a diseased artery or were they  
23 directed at another application?

24 A. These grants were to put in a

1 heart valve. I had those other uses and I did  
2 describe them elsewhere, but the grants were  
3 specifically for heart valves.

4 Q. And why did you focus on the heart  
5 valve embodiment of your invention?

6 A. It seemed to be the most important  
7 thing for us to be doing at the time. You know,  
8 Penicillin came along in World War II and wiped  
9 out rheumatic heart disease, but at this time  
10 there were many rheumatic heart problems around  
11 and that meant replaced valves, so that  
12 replacing valves was a big deal.

13 And the artificial valves had only  
14 been developed a few years before and by the  
15 way, Dr. Lillehei, he had put in the first one  
16 in the world and developed three of them on his  
17 own. So in general in Minnesota that if you  
18 were involved in the heart valves, you were a  
19 pretty good deal and if you were involved in  
20 something else, it was a lesser deal, so all of  
21 these reasons are why we stressed the heart  
22 valve.

23 Q. Have you ever referred to your  
24 stent as staple like?

1 A. Yes.

2 Q. Okay. Why did you call it staple  
3 like?

4 A. Well, a couple of reasons. Number  
5 one, surgical staples first came to this country  
6 in 1964, and they were revolutionizing certain  
7 parts of medicine. For instance, gastric bypass  
8 and some other things where you could just clamp  
9 the tissue and automatically fasten it and take  
10 the tool out, something that took hours before  
11 you could now do in a matter of minutes.

12 So when I was talking to surgeons  
13 and all I could convey this idea of a tool to  
14 put it in place, fasten things for a scaffolding  
15 by saying it's staple like.

16 Secondly, Dr. McGovern had made a  
17 valve, a heart valve that had as its fastening  
18 means a bunch of little staples, little tiny  
19 wire claws that came out and just kind of dug in  
20 all the way around the wall and one fell swoop  
21 he had a device that would put them in. And he  
22 called -- I think he called that a stapled  
23 annulus, in other words, you put the valve in,  
24 staple it in place. It didn't work very well.

1 And using this controllably  
2 expandable stent was a way to overcome the  
3 shortcomings of the McGovern valve, but because  
4 people understood that, I felt to describe it as  
5 a staple-like device was something that would be  
6 appreciated by my colleagues at this time.

7 Q. Did you mean to suggest by calling  
8 it a staple-like device that it was a stapler?

9 MR. CAVANAUGH: Objection, Your  
10 Honor. Objection, Your Honor. Leading.

11 THE COURT: Overruled.

12 Q. Go ahead, Dr. Ersek.

13 A. I never meant to say it was a  
14 stapler. It had no staples in it. It doesn't  
15 work like a stapler, it works like a slotted  
16 tubular stent.

17 Q. Now, Dr. Ersek, other than the  
18 efforts that you've described, did you make any  
19 efforts to pursue your invention?

20 A. Yes.

21 Q. What did you do?

22 A. Well, in addition to applying for  
23 several grants, I went to many companies to see  
24 if I could get them interested in funding this,

1 along with the work we were doing at the  
2 university.

3 Q. Which companies did you talk to?

4 A. More than fifty, starting with  
5 Johnson & Johnson and Cordis and Medtronic, and  
6 oh, gosh, more than I can -- than you can  
7 imagine.

8 Q. We don't have to go through all  
9 fifty, but thank you for trying.

10 And what was the reception to it?

11 A. By the way, I also spoke to an  
12 equal number of brokers, you know, trying to get  
13 them involved, too.

14 Q. When you spoke to the brokers and  
15 these companies, did you have secrecy  
16 agreements?

17 A. Absolutely not, in fact just the  
18 opposite, I wanted to tell them about it. I  
19 wanted them to tell other people about it. And  
20 all of these people did their own due diligence  
21 and investigated things. I had many other  
22 products that I put into this trying to raise  
23 money in addition to the heart valve device.

24 Q. You say the heart device. You're

1 talking about the stent?

2 A. Yes.

3 Q. What are the other devices that  
4 you had there?

5 A. As I recall it was about seventeen  
6 different devices and they ranged in complexity  
7 from a simple colored rubber band called a  
8 vessel loop that is in daily use in every  
9 hospital in the world and every vascular surgeon  
10 that's talked to you has used vessel loops,  
11 Vastize or something like that, every single  
12 day. Red for arteries, blue for veins, white  
13 for nerves, and they were simple and easy and  
14 disposable and they sold and we are selling them  
15 right there.

16 Q. Dr. Ersek, it's probably my own  
17 fault because I asked the question.

18 A. Second, the most complex was a  
19 membrane pump oxygenator heart lung machine with  
20 only one moving part, the membrane.

21 Q. And there were a bunch of others?

22 A. Yes.

23 Q. Are you the inventor of all these?

24 A. Yes.

# **EXHIBIT**

# **H**



IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

CORDIS CORPORATION, ) Volume V  
 )  
Plaintiff, )  
 )  
v. ) No. 97-550-SLR  
 )  
MEDTRONIC VASCULAR, )  
INC., BOSTON )  
SCIENTIFIC CORP., and )  
SCIMED LIFE SYSTEMS, INC. )  
 )  
Defendants. )  
- - - - -  
MEDTRONIC VASCULAR, INC., )  
 )  
v. ) No. 97-700-SLR  
 )  
CORDIS CORPORATION, et al. )  
 )  
Defendants. )

Thursday, March 10, 2005  
8:30 a.m.

844 King Street  
Wilmington, Delaware

BEFORE: THE HONORABLE SUE L. ROBINSON  
United States District Court Judge

1 A. Yes.

2 Q. After the procedure, and line the  
3 interior of the vessel wall with this mysterious  
4 liner; right?

5 A. Yes.

6 Q. Okay. And that mysterious liner  
7 was not going to have any holes in it; the  
8 purpose was not to have holes in it?

9 A. Yes.

10 Q. Because he wanted to prevent fat  
11 deposits; right?

12 A. Right.

13 Q. So, in fact, such a liner would  
14 probably kill the anterior of the vessel wall,  
15 wouldn't it?

16 A. Not anymore than putting a -- we  
17 put Dacron grafts in the liner of --

18 Q. Okay.

19 A. -- heart arteries all the time.

20 Q. Okay. We can agree that  
21 Mr. Hammerslag's idea was never used by anyone;  
22 right?

23 A. That's correct.

24 Q. So we add Hammerslag and then we

1 have Palmaz and the rest of our story, and your  
2 other reference is Ersek; right?

3 A. That was one of the ones I  
4 referenced, yes.

5 Q. Ersek is from a field of  
6 conventional surgery; right?

7 A. That's correct.

8 Q. Okay. And that's where you open  
9 up the chest and take one of Ersek's guns and  
10 put this structure on it and expand it with the  
11 gun during an open surgical procedure; right?

12 A. During an intraluminal procedure,  
13 yes.

14 Q. During an intraluminal procedure?

15 A. It's placed intraluminally, yes.

16 Q. It's placed into the lumen of the  
17 vessel after you cut open the patient's chest;  
18 right?

19 A. Right.

20 Q. So let's add Ersek, that would be  
21 Ersek being used in an aortic valve, heart valve  
22 transplant, perhaps.

23 You have to expose the heart in  
24 order to put in a heart valve; correct? I don't

1 want to get unduly technical.

2 A. That's not the way I understand  
3 that at all, that you would have to expose the  
4 heart.

5 Q. Okay. In any event, your  
6 testimony about Ersek is all you have to do is  
7 make two simple changes in Ersek, first, you  
8 understand that Ersek's device is a staple-like  
9 device intended to implant into the vessel wall;  
10 right?

11 A. A stent-like device, yes.

12 Q. I said a staple-like device?

13 A. It's more of a stent-like device,  
14 yes.

15 Q. I didn't ask you that, sir.

16 A. No, I don't -- I don't agree that  
17 it was a staple-like device.

18 Q. You don't agree with Dr. Ersek's  
19 description of his device?

20 A. I agree with his description, but  
21 I don't agree that it was a staple-like device.

22 Q. Were you here when he testified?

23 A. Yes.

24 Q. You heard he's called his device a

1 staple-like device?

2 A. Yes, I heard that.

3 Q. Do you agree with that or not?

4 A. I agree that he called it a  
5 staple-like device, yes.

6 Q. My question is: Do you agree with  
7 Dr. Ersek's description of his device, is it a  
8 staple-like device?

9 A. I agree with his description of  
10 his device, yes.

11 Q. Okay. Fine. So all you have to  
12 do to turn Ersek into Palmaz is take its  
13 staple-like aspects and eliminate them by  
14 flattening it down, that's your first step;  
15 right?

16 A. No, smoothing it.

17 Q. Flattening it, you gave a whole  
18 afternoon of testimony about flattening Ersek,  
19 didn't you?

20 A. No, I quoted the patent as  
21 smoothing, yes.

22 Q. Doctor --

23 A. You're right, flattened metal. I  
24 understand, yes.

1 Q. Not flattened, Ersek --

2 A. I understand. I agree with you.

3 Q. So what you were saying was you  
4 would take the staple-like projections and  
5 eliminate them by flattening them down; right?

6 A. Yes.

7 Q. Okay. So basically you take it  
8 from a stapler and turn it into not a stapler,  
9 that's your first step; right?

10 A. Yes, you smooth it.

11 Q. After you have taken Ersek and  
12 taken away its function, that's what you did,  
13 you took away its function as a stapler; right?

14 A. No, I wouldn't say you're taking  
15 away its function, you're not taking away the  
16 function of embedding it into the wall of the  
17 artery, yes.

18 Q. You're taking away the function  
19 that Ersek described in his patent of using it  
20 like a stapler, right, just taking it away?

21 A. If you say so.

22 Q. Do you say so, Doctor?

23 A. No, I don't think you have taken  
24 that away.